



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2017-0436; FRL-9969-36-Region 4]

Air Plan Approval; AL; VOC Definitions and Particulate Emissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve changes to the Alabama State Implementation Plan (SIP) to revise the definition of “volatile organic compounds” (VOCs), correct a typographical error, and remove control of particulate emissions and opacity limits for Talladega County. EPA is approving the SIP revisions submitted by the State of Alabama, through the Alabama Department of Environmental Management (ADEM), on May 19, 2017. This action is being taken pursuant to the Clean Air Act (CAA or Act).

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2017-0436. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available

either electronically through www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Richard Wong, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-8726. Mr. Wong can be reached via electronic mail at wong.richard@epa.gov.

SUPPLEMENTARY INFORMATION:

I. What Action is the Agency Taking?

In this rulemaking, EPA is approving changes to the Alabama SIP, submitted by the State on May 19, 2017. The submission revises ADEM Rule 335-3-1-.02 – *Definitions* and Rule 335-3-4-.08 – *Wood Waste Boilers*. Specifically, this rulemaking revises the definition of VOCs, corrects a typographical error and removes particulate emission and opacity limits for Talladega County.

II. Background

On August 16, 2017 (82 FR 38865), EPA proposed to approve the aforementioned changes, among others, to the SIP. This proposed rule accompanied a direct final rule published on the same day in the Federal Register (82 FR 38841). EPA received an adverse comment on

the direct final rulemaking only on the changes made to Rule 335-3-1-.02 and Rule 335-3-4-.08. Accordingly, EPA is withdrawing the direct final action through a separate action published elsewhere in this issue of the Federal Register and is taking final action on the changes to Rule 335-3-1-.02 and Rule 335-3-4-.08 in this final rule.

A. Rule 335-3-1-.02 – Definitions

On November 29, 2004, and August 1, 2016, EPA issued final rules revising the definition of VOCs by adding new compounds (tertiary butyl acetate (or t-Butyl acetate) and 1,1,2,2-Tetrafluoro-1-(2,2,2-trifluoroethoxy) ethane) to the list of those that are considered to be negligibly reactive compounds, and on February 25, 2016 (81 FR 9339), EPA issued a final rule removing recordkeeping, emissions reporting, photochemical dispersion modeling, and inventory requirements for t-Butyl acetate. The State's May 19, 2017, SIP revision adds these compounds to the list of negligibly reactive compounds under ADEM Rule 335-3-1-.02 subpart (gggg). The SIP revision also removes the recordkeeping, emissions reporting, photochemical dispersion modeling, and inventory requirements requirement for t-Butyl acetate. Additionally, the submittal makes a typographical correction under subpart (gggg)(iii). EPA proposes to approve these revisions because they are consistent with the definition of VOC at 40 CFR 51.100(s).

The State's addition of exemptions from the definition of VOCs and removal of recordkeeping, emissions reporting, photochemical dispersion modeling, and inventory requirements for t-butyl acetate are approvable under section 110(l) because they reflect changes to Federal regulations based on findings that the exempted compounds are negligibly reactive. The typographical error correction makes ministerial changes for consistency.

B. Rule 335-3-4-.08 – Wood Waste Boilers

Rule 335-3-4-.08 – *Wood Waste Boilers* was adopted into the Alabama SIP on April 23, 1974 (39 FR 14338), to provide emission limits based on available control technologies and included a 0.30 grain per dry standard cubic foot (gr/dscf) emissions limit for boilers burning a combination of wood waste and fossil fuels. On November 24, 1981 (46 FR 57484), EPA finalized a SIP revision allowing pulp mills to operate boilers that burn only wood waste in Talladega County. This change allowed a particulate matter emissions concentration of 0.45 gr/dscf when burning wood waste alone (but total emissions would remain the same provided boilers operate on a reduced rate). On July 11, 1986 (51 FR 25198), EPA approved a revision adding a new paragraph 3 at Rule 335-3-4-.08 that relaxed the allowable emission limit to 0.60 gr/dscf for wood waste boiler sources that operate up to 300 million British thermal unit per hour and tightened allowable emissions for other types of sources in Talladega County. Compliance with the emission limit was determined by an annual stack test. Additionally, an opacity limit of 76 percent was established and would be measured by a transmissometer.

The May 19, 2017, SIP revision removes paragraph 3, applicable only to sources in Talladega County, because the type of source no longer exists in the County or anywhere else in the State. Moreover, if such a source were to begin operating in the future, it would be subject to more stringent requirements under Rule 335-3-4-.08 paragraph 2.

EPA believes that these changes to the regulatory portion of the SIP are consistent with section 110 of the CAA and meet the regulatory requirements pertaining to SIPs. Pursuant to CAA section 110(l), the Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in CAA section 171), or any other applicable requirement of the Act. The State's removal of emissions and opacity requirements for Talladega County is an approvable

change under section 110(l) because, should these sources start operating, they would fall under more stringent rules in the SIP.

III. Response to Comments

Comment: EPA received one adverse comment on the direct final rule published on August 16, 2017 (82 FR 38841), and this comment has been included in the Docket for this action. The Commenter stated that EPA should not remove t-Butyl acetate (TBAC) from the list of “volatile organic compounds because “this compound is particularly dangerous and can cause deformations and brain injuries.” The Commenter stated that EPA should maintain the recordkeeping and reporting provisions “to determine whether states are causing deformations or brain injuries in nearby communities.” The Commenter also stated EPA should not remove wood burning rules.

Response: The State is merely updating the SIP to align with EPA’s past rulemakings and reflect the definitions in 40 CFR 51.100(s). EPA issued a final rulemaking on November 29, 2004 (69 FR 69298) that revised the definition of VOC to exclude TBAC as a negligibly reactive compound. Additionally, EPA issued a final rule on February 25, 2016 (81 FR 9339), that removed TBAC recordkeeping, emissions reporting, photochemical dispersion modeling, and inventory requirements for TBAC. EPA acknowledges the comments regarding the health risks associated with TBAC and is continuing to take steps to assess potential risks associated with this compound. In the 2016 EPA rule, EPA discussed the efforts surrounding any future determinations about the health risks associated with TBAC, including noting that data collected through the recordkeeping and reporting requirements did not appear relevant to any such future determinations and that EPA was assessing the health risks from TBAC through its Integrated

Risk Information System. This effort is on-going, and we refer the Commenter to EPA's previous 2016 rulemaking (81 FR 9339, 9341) for more information regarding health risks.

The State removes Rule 335-3-4-.08 paragraph 3, particulate matter emissions limit for wood waste boilers applicable only to Talladega County because such sources no longer operate in the County. If such a source were to begin operating in the future, it would be subject to more stringent requirements under Rule 335-3-4-.08 paragraph 2, applicable statewide. Therefore, the Commenter's statement that such sources should be subject to tighter requirements is true, and EPA has determined that any new source would be subjected to tighter emissions limits, currently approved in the SIP.

IV. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of Rule 335-3-1-.02 – *Definitions* and Rule 335-3-4-.08 – *Wood Waste Boilers*, effective June 9, 2017. EPA has made, and will continue to make, these materials generally available through www.regulations.gov and/or at the EPA Region 4 Office (please contact the person identified in the "For Further Information Contact" section of this preamble for more information).

Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally-enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.¹

V. Final Action

¹ 62 FR 27968 (May 22, 1997).

EPA is taking final action to approve portions of Alabama's May 19, 2017, submission submitted by the State of Alabama through ADEM. The submission revises Rule 335-3-1-.02 – *Definitions* and Rule 335-3-4-.08 – *Wood Waste Boilers*.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. This action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after

it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 29, 2017.

Onis “Trey” Glenn, III,
Regional Administrator,
Region 4.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart B—Alabama

2. Section 52.50(c) is amended by revising the entries for “Section 335-3-1-.02” and “Section 335-3-4-.08” to read as follows:

§52.50 Identification of plan.

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(c) * * *

EPA APPROVED ALABAMA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
Chapter No. 335-3-1 General Provision				
* *	* *	*	*	*
Section 335-3-1-.02	Definitions	6/9/2017	[Insert date of publication in <u>Federal Register</u>]; [Insert citation of publication]	
* *	* *	*	*	*
Chapter 335-3-4 Control of Particulate Emissions				
* *	* *	*	*	*
Section 335-3-4-.08	Wood Waste Boilers	6/9/2017	[Insert date of publication in <u>Federal Register</u>]; [Insert citation of publication]	
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[FR Doc. 2017-22099 Filed: 10/12/2017 8:45 am; Publication Date: 10/13/2017]